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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,945	10/02/2001	Andreas Fuchs	WLL-12659	8707

40854 7590 01/10/2006

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EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/937,945	FUCHS ET AL.	
	Examiner	Art Unit	
	Fenn C. Mathew	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (U.S. 4,709,719). Yang teaches a drive system including a foot pedal, a generator, a transmission, and a control system, comprising a control program in which forwards pedaling causes resistance. It is noted that pedal resistance can be preset which will allow for a high starting moment from standstill up to minimum riding speed. Yang does not teach the use of an electronic transmission, however, the substitution of an electronic transmission for a mechanical transmission involves only routine skill in the art. Referring to claims 2-4, specific limitations drawn to specific resistances are considered matters of design choice absent criticality. With respect to claim 5, as best understood Yang teaches resistance of the generator in phase with the pedal angle. Referring to claim 6, as best understood, Yang teaches a brake, therefore, providing resistance to pedaling (col. 7, lines 64-70). Referring to claims 7-8, as broadly claimed, Yang teaches preprogrammed resistance which can be applied by turning on a switch. As best understood, the shutting off of the switch will keep the resistance for a brief moment. Referring to claim 9, Yang teaches a drive system that provides resistance when the power is on or cutoff. With respect to claim 10, as best understood, Yang

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teaches a drive system including a control program (set by control system) which allows for different resistances. Referring to claim 11, Yang teaches a braking mechanism. Referring to claim 12, Yang teaches a free-wheel system (resistance wheel) and clutch. Referring to claim 13, Yang teaches the claimed elements. Referring to claim 14, Yang teaches a microprocessor or other storage means. Referring to claim 15, the feature of multiple motors is considered obvious to one of ordinary skill in the art. Referring to claim 16, Yang teaches various operating data that can be recorded including speed, distance, and resistances. Referring to claim 17, absent further limitation, Yang teaches an interface that can receive external devices (devices can be clipped on or otherwise attached). Referring to claim 19, Yang teaches operating programs. Referring to claim 20, Yang teaches an auto-shutoff. Referring to claim 21, limitations drawn to the shape of the pedal are considered matters of obvious design choice. Referring to claims 22-23, Yang can be considered a vehicle or training apparatus.

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang as applied to claim 1 above, and further in view of Hood et al. (U.S. 5,213,555). Yang teaches the claimed invention except for removable data medium. Hood teaches in analogous device the desirability of a removable data card and card reader. In view of the teachings of Hood it would have been obvious to one of ordinary skill in the art to provide a removable card reader.

Response to Arguments

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4. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection. Applicant's traversal of the election requirement is noted, and has been withdrawn.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fc
fcm
January 9, 2006



MICHAEL A. BROWN
PRIMARY EXAMINER